

Application No. 10/531,846  
Paper Dated: January 30, 2009  
In Reply to USPTO Correspondence of  
Attorney Docket No. 4544-051198

**REMARKS**

Claims 14-28 are currently pending in the application, with claim 14 being the sole independent claim. Applicant respectfully request the entrance of the amendments to the specification and claims submitted with the Amendment After Final dated December 30, 2005.

**Claim rejections under 35 U.S.C. §112, first paragraph**

The Office Action rejects claims 14-28 under 35 U.S.C §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor had possession of the claimed invention at the time the application was filed. Specifically the Examiner asserts that there is no support in the specification for “a modified chemically defined growth medium” as described in claim 14. The rejection of claims 14 and 16-28 is an error since the term “a modified chemically defined growth medium” only appears in dependent claim 15, from which no other claims depend. This error has been confirmed through a telephone conversation with Examiner Irene Marx. To overcome the rejection of claim 15, Applicant has removed the phrase “a modified chemically defined growth medium” and has replaced it with “a modified liquid medium containing a nutrient source.” Support for this Amendment is found, for example, in paragraph [0010] of the specification as originally filed, wherein the specification recites “The fungus is further cultured in a liquid medium containing modified and a nutrient source such as sucrose.” Claim 15 is now believed to be in condition for allowance. Removal of the rejection under 35 U.S.C. §112, first paragraph, and allowance of claim 15 is respectfully requested.

**Claim rejections under 35 U.S.C. §112, second paragraph**

Claim 26 has been amended in accordance with the Examiner’s suggestion on page 2 of the Office Action to recite “....extraction is a polar solvent.”

In view of the amendments made herein, it is respectfully requested that the rejection of claims 26 under 35 U.S.C. §112, second paragraph, be withdrawn.

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**Rejections under 35 U.S.C. §112, first paragraph, Deposit of Biological Material**

Claims 14-28 are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In particular, the Office Action notes that the invention appears to employ a specific strain of *A. alternata* and it is not clear if the written description is sufficiently repeatable to avoid the need for a deposit and it is not clear if the starting materials were readily available to the public at the time of the invention.

*Alternaria alternata* f.sp. lantanae have been deposited at the Indian Agricultural Research Institute-Division of Plant Pathology, Indian Agriculture Research Institute (IARI), New Delhi 110 012 under the Budapest Treaty as Deposit No. ITCC-4896. It is noted that the IARI is not an internationally recognized depository.

Accordingly, the *Alternaria alternata* f.sp. lantanae have now been deposited at the Microbial Type Culture Collection & Gene Bank, Institute of Microbial Technology, (MTCC) Sector 39-A, Chandigarh, India under the Budapest Treaty.

- The date of the deposit: July 25, 2008;
- The deposit accession number: MTCC 5432;
- Name and Address of the Depository (MICROBIAL TYPE CULTURE COLLECTION & GENE BANK (MTCC) Sector 39-A, Chandigarh 160 036, India); and
- Taxonomic description: *Alternaria alternata* f.sp *lantanae* ITCC 4896 (LC#508)

This information has now been incorporated into paragraph [001] of the specification and is believed to comply with 37 C.F.R. 1.801-1.809. A copy of the deposit information was submitted with the Amendment dated December 30, 2008. The depository affords permanence of the deposit and ready accessibility thereto by the public if a patent is granted; access will be granted to the deposit during the pendency of the application; and all restrictions on the availability of the deposit to the public will be irrevocably removed upon the granting of the U.S. patent on the above-identified application.

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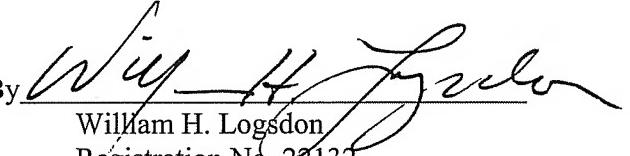
Claims 14-28 are now believed to comply with 35 U.S.C. §112, first paragraph. Therefore, removal of the rejection and allowance of claims 14-28 is respectfully requested.

**CONCLUSION**

In view of the above amendments and remarks, reconsideration of the rejections and allowance of claims 14-28 is respectfully requested.

Respectfully submitted,  
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